

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:06CR3066
)	
Plaintiff,)	MEMORANDUM
vs.)	AND ORDER
)	
JOSEPH P. KNOPP,)	
)	
Defendant.)	

Defendant has filed a motion for a second 30-day extension of time in which to file a notice of appeal. Under Federal Rule of Federal Procedure 4(b)(4), a district court in a criminal case may only extend the time to file a notice of appeal for “a period not to exceed 30 days from expiration of the time otherwise prescribed by this Rule 4(b).” See also Fed. R. App. P. 26(b)(1). The prescribed period in this case was 10 days after entry of judgment. See Fed. R. App. P. 4(b)(1)(A)(i). Judgment was entered on November 11, 2006. Ten business days later was November 30, 2006. See Fed. R. App. P. 26(a)(2) (when the period is less than 11 days, exclude intermediate Saturdays, Sundays, and legal holidays). Thirty calendar days after that date is December 30, 2006, which is a Saturday. At the latest, therefore, Defendant’s notice of appeal must be filed by Wednesday, January 3, 2007 (the courthouse being closed over the weekend, on New Year’s Day, and on Tuesday for a national day of mourning for President Ford). See Fed. R. App. P. 26(a)(3).

On November 29, 2006, Defendant filed a motion and submitted a proposed order, which I signed the next day, providing that “Defendant shall have 30-days or until December 29, 2006, to file a Notice a Appeal.” (Filing 27.) Defendant’s pending motion was filed today, on December 29, 2006. While I cannot grant another 30-day extension, I will allow Defendant the maximum time permitted by Rule 4(b) for filing a notice of appeal. Accordingly,

IT IS ORDERED that Defendant's second motion for enlargement of time (filing 31) is granted in part and denied in part, as follows:

1. Defendant shall have until January 3, 2007, to file a notice of appeal;
and
2. In all other respects, the motion is denied.

December 29, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge